

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0484P**

Gross and Adjusted Gross Income Tax

Fiscal Years Ended April 1, 1994, March 31, 1995, March 29, 1996, March 28, 1997,  
and April 3, 1998

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**ISSUE(S)**

I. **Tax Administration**—Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is incorporated in Nevada and has no Indiana business locations. Upon audit it was discovered that the taxpayer failed to correctly report its gross income for three years of the audit. Taxpayer provides customers in Indiana computer hardware, software, software services, support/maintenance, consulting, leasing, and miscellaneous undefined services. Taxpayer underreported its receipts in two of the audit years and reported its product sales as service receipts in two of the audit years. The auditor adjusted the receipts to the correct tax rate and included all revenues from Indiana sources. In addition, the sales factor numerator was adjusted to agree with the amount of Indiana receipts as shown on the sales by state analysis and the gross income shown in the audit report.

Taxpayer protests the penalty and states that it has made an honest attempt to correctly report its liabilities and has a history of paying its tax liabilities timely. It has made necessary changes to insure it does not happen in the future.

I. **Tax Administration**—Penalty

### **DISCUSSION**

Taxpayer was assessed a negligence penalty for failure to correctly report receipts in gross income, various errors in the apportionment factor and failure to correctly report business income. Taxpayer paid 70.7%, 94.5%, and 85.7% of the tax due for calendar years 1996, 1997, and 1998 respectively.

Taxpayer states that it receives an analysis from six related companies that include consulting fees, leases, and undefined sales. Taxpayer states it allowed the auditor to include the undefined sales in high rate income when it likely could be low rate. Taxpayer should have made itself aware of the type of income it received from the related companies. Taxpayer further states that it has made an honest attempt to correctly report its tax liabilities, and has made necessary changes to insure these errors are corrected in the future.

Taxpayer also made errors in various areas of its tax return that should have been verified before filing. Taxpayer has not provided reasonable cause to allow the department to waive the negligence penalty.

### **FINDING**

Taxpayer's protest is denied.